

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JONATHAN A. WHEELER,

Plaintiff,

V.

JOSEPH POLITE, *et al.*,

Defendants.

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NO. 5:23-cv-00164-TES-CHW

ORDER

Plaintiff Jonathan A. Wheeler, a prisoner in the Georgia Diagnostic and Classification Prison in Jackson, Georgia, filed a complaint pursuant to 42 U.S.C. § 1983. Compl., ECF No. 1. Plaintiff also filed a motion for leave to proceed in this action *in forma pauperis*. Mot. for Leave to Proceed *In Forma Pauperis*, ECF No. 2. Upon consideration of these filings, Plaintiff's motion for leave to proceed *in forma pauperis* was denied, and Plaintiff was ordered to pay the \$402.00 filing fee if he wanted to proceed with this action. Order, ECF No. 5. Plaintiff was given fourteen days to pay the filing fee and was cautioned that his failure to do so could result in the dismissal of this case. *Id.*

After that order was entered, Plaintiff filed a motion asserting that the defendants had refused to sell him postage stamps for three weeks, preventing him from responding to the Court's orders. Mot. for Ext. of Time, ECF No. 6. In the motion, Plaintiff asks the Court to excuse any late responses and asserts that he will buy postage stamps when they are made available to him. *Id.* Plaintiff was apparently able to obtain postage stamps at

some point because he mailed this motion and others to the Court. *See* Attach. to Mot., ECF No. 6-1. In the motion, Plaintiff does not seek a specific extension of time to respond to anything in particular, and, at the same time that he filed this motion, Plaintiff filed a response to the order for him to pay the filing fee. Thus, there does not appear to be any basis for granting this motion, and the motion (ECF No. 6) is **DENIED AS MOOT**.

Plaintiff has also filed a new motion for leave to proceed in this action *in forma pauperis*. Mot. for Leave to Proceed *In Forma Pauperis*, ECF No. 7; Prisoner Trust Fund Account Statement, ECF No. 9. The new motion still shows that Plaintiff has sufficient funds in his account to pay the initial partial filing fee, and Plaintiff does not assert that he cannot pay the fee or identify any changed financial circumstances that prevent him from doing so. To the contrary, as discussed below, Plaintiff has filed a motion asking the Court to order that the money be withdrawn from his account. Therefore, the new motion to proceed *in forma pauperis* (ECF No. 7) is also **DENIED**.

Finally, Plaintiff has filed a motion asking the Court to order the business office of the prison to submit the filing fee payment out of Plaintiff's prisoner trust fund account. Mot., ECF No. 8. Plaintiff asserts that he has attempted to have the fee paid from his account, but his requests have been ignored. *Id.* at 1. Plaintiff further states that he will make another request. *Id.*

The Court will not order the business office to withdraw funds from Plaintiff's account at this time, and thus, this motion (ECF No. 8) is **DENIED** as well. Instead, because Plaintiff has indicated that he has had difficulty having the fee paid from his account, Plaintiff is ordered to show this order to the proper official when he next attempts

to have the fee paid from his account. If Plaintiff is still unable to have the fee paid, he must submit a written notice to this Court identifying the person or persons he spoke to in attempting to have the fee paid, the dates on which he spoke to these individuals, and the response that he received. If Plaintiff receives written notice that the fee will not be paid from his account, Plaintiff must provide this Court with a copy of that notice.

Plaintiff shall have **FOURTEEN (14) DAYS** from the date of this order to pay the filing fee or file his written notice as set forth above. Plaintiff's failure to fully and timely comply with this order may result in the dismissal of this action.

There shall be no service in this case pending further order of the Court.

SO ORDERED, this 8th day of August, 2023.

s/ Charles H. Weigle
Charles H. Weigle
United States Magistrate Judge